



**STATE OF CONNECTICUT
JUDICIAL BRANCH**

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**Testimony of Deborah J. Fuller
Judiciary Committee Public Hearing
March 4, 2011**

**Senate Bill 950, An Act Concerning the Duties of a Mortgagee in a
Foreclosure Action on Residential Real Property**

Thank you for the opportunity to submit written testimony, on behalf of the Judicial Branch, on *Senate Bill 950, An Act Concerning the Duties of a Mortgagee in a Foreclosure Action on Residential Real Property*.

The Judicial Branch supports this proposal, which would require a holder of a mortgage on a residence that is the subject of a foreclosure action to provide contact information for an individual who has the authority, on behalf of the mortgagee, to process requests to refinance or modify the mortgage agreement or otherwise take action to avoid foreclosure. This would address a real problem. Communication with the large national servicers and banks has been a continuing challenge for our foreclosure mediators. It is one of the reasons that the process is often protracted, taking multiple mediation sessions to reach a settlement or determine that a settlement cannot be reached. Currently the first, if not the first few, mediation sessions are spent coordinating the exchange of financial documents to the appropriate contact person at the lender. We anticipate that the first mediation session will be more productive if a lender contact is reached and the requested information is provided by the borrower prior to that session.

In addition, having a consistent lender contact will provide an element of lender accountability for both the borrower and the court. The current statute requires that both the borrower and the lender appear in person at each mediation session and that both have authority to agree to a proposed settlement. However, it also allows the

attorney for the lender to appear in the lender's stead, "*provided such counsel has the authority to agree to a proposed settlement and the mortgagee is available during the mediation session by telephone.*" Our mediators consistently report problems with compliance with this requirement; these problems cause delays in the mediation process.

This proposal is similar to a bill that was introduced last year. We supported portions of that bill last year, but could not support the more draconian enforcement measures it included. Those measures have been removed. In addition, this year's bill gives the lenders more flexibility because it allows the lender to change the contact person, provided proper notice and contact information is given to the borrower.

I should note that since last year, representatives of the lending industry have reached out to the Judicial Branch in an effort to help address the problem this bill seeks to address, as well as other issues. We appreciate their efforts. However, although we have had meetings and conference calls with high-level people from the lending industry, the problems persist. We have come to the conclusion that an additional statutory requirement may be necessary.

In conclusion, we believe that this proposal will result in fewer and more productive mediation sessions. This will both better utilize the resources of the Judicial Branch's Foreclosure Mediation Program and lessen the burden on homeowners. We urge the committee to support this proposal.

Thank you for your consideration.